

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

TYRELL D. ANDERSON #306-278 :
Plaintiff :
: :
v. : CIVIL ACTION NO. AMD-06-2646
: :
WARDEN OF MCI-H :
Defendant :
: ...00o...

MEMORANDUM

This case was filed on October 6, 2006, accompanied by a motion for leave to proceed in forma pauperis. The motion shall be granted for the purpose of initial review of the complaint.

Plaintiff complains about alleged improprieties and mistreatment inflicted upon him during the period between August 15 and August 22, 2006, by prison staff at the Maryland Correctional Institute at Hagerstown.

Under the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a), no action shall be brought by a prisoner with respect to prison conditions under 42 U.S.C. § 1983 or any other federal law until he has exhausted available administrative remedies. *See Woodford v. Ngo*, 126 S.Ct. 2378, 2382-83 (2006) (exhaustion of administrative remedies is mandatory and must be “proper”); *Porter v. Nussle*, 534 U.S. 516, 542 (2002); *Booth v. Churner*, 532 U.S. 731, 739 (2001). Having reviewed the complaint, the court concludes that it would be appropriate and in the interest of justice for plaintiff to demonstrate complete exhaustion of administrative procedures as set forth in DCD 185-001, *et seq.* The court is of the view that, in this case, the administrative procedures set forth in DCD 185-001, *et seq.*, will aid the court in making factual determinations and that the delay involved will not unduly burden or prejudice plaintiff's rights. Upon submission of evidence that administrative remedies have been exhausted, plaintiff may re-file this action.

Accordingly, an Order shall be entered granting plaintiff leave to proceed in forma pauperis, but dismissing this case without prejudice to allow him to exhaust administrative remedies pursuant to 42 U.S.C. § 1997e. Plaintiff may refile this action after he has exhausted his administrative remedies through the institutional (Warden) and headquarters (Commissioner) levels.

Filed: October 17, 2006

/s/
Andre M. Davis
United States District Judge